

SENATE BILL No. 561

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7.

Synopsis: Agricultural nonconforming uses. Provides that the law concerning agricultural nonconforming use does not prohibit a county, a municipality, or the state from requiring an agricultural use to be maintained and operated in compliance with all state environmental and state health laws and rules. Provides that an agricultural nonconforming use may not be changed to a confined feeding operation if the change is not permitted under the comprehensive plan or zoning ordinance. Provides that a confined feeding operation may not be expanded if the expansion is not permitted under the comprehensive plan or zoning ordinance. Provides that the law concerning agricultural nonconforming use does not prohibit a county, a municipality, or the
(Continued next page)

Effective: July 1, 1999.

Wolf

January 20, 1999, read first time and referred to Committee on Agriculture and Small Business.



Digest Continued

state from requiring an agricultural use to be maintained and operated in compliance with all state environmental and state health laws and rules.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 561

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-7-4-616 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 616. (a) ~~As used in this~~
3 ~~section, "nonconforming use land" means land that satisfies both of the~~
4 ~~following:~~
5 (1) ~~The land is agricultural land that is used contrary to a~~
6 ~~comprehensive plan or zoning ordinance established for the area~~
7 ~~where the land is located.~~
8 (2) ~~The land was used for agricultural purposes before the~~
9 ~~adoption of a comprehensive plan or zoning ordinance for the~~
10 ~~area where the land is located.~~
11 (b) ~~Land remains as nonconforming use land as long as the land is~~
12 ~~used for agricultural purposes for any three (3) year period in a five (5)~~
13 ~~year period.~~
14 **The definitions used in this section apply only to this section.**
15 (b) **As used in this section, "agricultural use of land" refers to**



land that is used for:

(1) the production of livestock, dairy animals, dairy products, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products, in the case of land that was not subject to a comprehensive plan or zoning ordinance before the plan or zoning ordinance currently in effect was adopted; or

(2) agricultural purposes as defined in or consistent with a comprehensive plan or zoning ordinance that:

(A) the land was subject to; and

(B) was repealed before the adoption of the comprehensive plan or zoning ordinance currently in effect.

(c) As used in this section, "agricultural nonconforming use" means the agricultural use of land that is not permitted under the comprehensive plan or zoning ordinance currently in effect for the area where the land is located.

(d) Except as provided in subsection (e), an agricultural use of land that constitutes an agricultural nonconforming use may be changed to another agricultural use of land without losing agricultural nonconforming use status.

(e) A change in the nature of the agricultural nonconforming use from an activity not defined under IC 13-11-2-40 to an activity defined under IC 13-11-2-40 is not permitted by this section if the change is not permitted under the comprehensive plan or zoning ordinance currently in effect.

(f) The expansion of an activity defined under IC 13-11-2-40 and in existence at the time of the adoption of a comprehensive plan or zoning ordinance is not permitted by this section if the expansion is not permitted under the comprehensive plan or zoning ordinance currently in effect.

(g) Except as provided in subsections (e) and (f), a county or municipality may not, **through the county or municipality's zoning authority**, do any of the following:

(1) Terminate an agricultural nonconforming use ~~on nonconforming use land as long as~~ if the agricultural nonconforming use has been maintained for at least any three (3) year period in a five (5) year period.

(2) Restrict ~~any~~ an agricultural nonconforming use. ~~on nonconforming use land.~~

(3) Require an owner of nonconforming use land to obtain any of



the following for the **agricultural** use of the land: ~~for agricultural purposes:~~

- (A) A variance for the land.
- (B) A special exception for the land.
- (C) A special use for the land.
- (D) A contingent use for the land.
- (E) A conditional use for the land.

(h) Notwithstanding subsection (g), this section does not prohibit a county, a municipality, or the state from requiring an agricultural use to be maintained and operated in compliance with all state environmental and state health laws and rules.

SECTION 2. IC 36-7-11.1-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.1. (a) ~~As used in this section, "nonconforming use land" means land that satisfies both of the following:~~

(1) The land is agricultural land that is used contrary to a comprehensive plan or zoning ordinance established for the area where the land is located:

(2) The land was used for agricultural purposes before the adoption of a comprehensive plan or zoning ordinance for the area where the land is located:

~~(b) Land remains as noneonforming use land as long as the land is used for agricultural purposes for any three (3) year period in a five (5) year period.~~

The definitions used in this section apply only to this section.

(b) As used in this section, "agricultural use of land" refers to land that is used for:

(1) the production of livestock, dairy animals, dairy products, equine or equine products, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products, in the case of land that was not subject to a comprehensive plan or zoning ordinance before the plan or zoning ordinance currently in effect was adopted; or

(2) agricultural purposes as defined in or consistent with a comprehensive plan or zoning ordinance that:

(A) the land was subject to; and

(B) was repealed before the adoption of the comprehensive plan or zoning ordinance currently in effect.

(c) As used in this section, "agricultural nonconforming use" means the agricultural use of the land is not permitted under the comprehensive plan or zoning ordinance currently in effect for the



area where the land is located.

(d) Except as provided in subsection (e), an agricultural use of land that constitutes an agricultural nonconforming use may be changed to another agricultural use of land without losing agricultural nonconforming use status.

(e) An agricultural nonconforming use may not be changed from an activity not defined under IC 13-11-2-40 to an activity defined under IC 13-11-2-40 if the change is not allowed under the comprehensive plan or zoning ordinance currently in effect.

(f) An agricultural nonconforming use that is an activity defined under IC 13-11-2-40 may not be expanded if the expansion is not allowed under the comprehensive plan or zoning ordinance currently in effect.

~~(e)~~ (g) Except as provided in subsections (e) and (f), a county or municipality may not, through the county or municipality's zoning authority, do any of the following:

(1) Terminate an agricultural nonconforming use on nonconforming use land as long as if the agricultural nonconforming use is maintained for at least any three (3) year period in a five (5) year period.

(2) Restrict any an agricultural nonconforming use. on nonconforming use land.

(3) Require an owner of nonconforming use land to obtain any of the following for the nonconforming agricultural use of the land:

(A) A variance for the land.

(B) A special exception for the land.

(C) A special use for the land.

(D) A contingent use for the land.

(E) A conditional use for the land.

(F) A permit for work under section 8 of this chapter.

(G) A certificate of appropriateness.

(h) Notwithstanding subsection (g), this section does not prohibit a county, a municipality, or the state from requiring an agricultural use to be maintained and operated in compliance with all state environmental and state health laws and rules.

